

NO. X06-UWY-CV15-6050025-S	:	SUPERIOR COURT
	:	
DONNA L. SOTO, ADMINISTRATRIX	:	
OF THE ESTATE OF	:	COMPLEX LITIGATION
VICTORIA L. SOTO, ET AL	:	DOCKET
	:	
V.	:	AT WATERBURY
	:	
BUSHMASTER FIREARMS	:	
INTERNATIONAL, LLC, ET AL	:	OCTOBER 18, 2021

**PLAINTIFFS' REQUEST TO REVISE REMINGTON'S SPECIAL DEFENSES TO THE
PLAINTIFFS' THIRD AMENDED COMPLAINT**

Pursuant to Connecticut Practice Book § 10-35 *et seq.*, the plaintiffs hereby request that Remington Arms Company, LLC and Remington Outdoor Company ("Remington") revise its special defenses dated September 17, 2021 (DN 380) in the following ways:

FIRST REQUESTED REVISION:

A. Portion of Pleading Sought to be Revised:

First Special Defense:

"Plaintiffs fail to state a claim upon which relief can be granted because they have failed to plead facts necessary to allege causation-in-fact and proximate causation of their alleged damages."

B. Requested Revision:

The plaintiffs request that Remington's First Special Defense be removed in its entirety.

C. Reasons for Requested Revision:

The Practice Book states that a request to revise may be used "[w]henver any party desires to obtain... (2) the deletion of any unnecessary, repetitious, scandalous, impertinent, immaterial or otherwise improper allegations in an adverse party's pleading." Prac. Bk. § 10-35. "A mere expression of the deficiency of the plaintiffs' statements fails to assert facts which show that the plaintiffs have no cause of action....

A special defense which alleges nothing more than that the complaint (or a count thereof) fails to allege a cause of action upon which relief can be granted fails to ... allege any facts.... [A] party pleading a special defense must plead facts consistent with the special defense they are alleging.” *Neron v. Cossette*, 2013 WL 811864, at *3 (Conn. Super. Jan. 28, 2013) (Fischer, J.) (citations omitted). In the First Special Defense, Remington does nothing more than allege that the Third Amended Complaint (DN 364) does not state a claim upon which relief can be granted, without stating any facts. This special defense, as pled, is improper for failure to state any facts and should therefore be removed in its entirety.

SECOND REQUESTED REVISION:

A. Portion of the Pleading Sought to be Revised:

Eighth Special Defense:

“Plaintiffs’ claims are barred, in whole or in part, because they received payments from third parties in complete or partial satisfaction of any damages incurred as a result of the occurrence alleged in the TAC.”

B. Requested Revision:

The plaintiffs request that Remington revise the Eighth Special Defense to state the material facts upon which the defense relies.

C. Reasons for Requested Revision:

The plaintiffs request that the Court require Remington to revise the Eighth Special Defense to include material facts in accordance with Connecticut pleading standards.

“The purpose of a request to revise is to secure a statement of the material facts upon which the adverse party bases his complaint or defense The test is not whether the pleading discloses all that the adversary desires to know in aid of his own cause, but

whether it discloses the material facts which constitute the cause of action or ground of defense.” *McDermott Rd., LLC v. Hammonasset Const., LLC*, 2014 WL 5286598, at *1 (Conn. Super. Sept. 17, 2014) (Nazzaro, J.) (citation omitted). Practice Book § 10–1 “requires a plain and concise statement of the material facts on which the pleader relies. Furthermore, ‘each special defense must set forth something more than mere assertions of legal conclusions unsupported by factual allegations ...’.” *Id.* at *5 (citation omitted). Additionally, “the Appellate Court has held that special defenses that fail to provide allegations as to the essential elements thereof are technically defective.” *Id.* at *1 (citation omitted). Simply, Connecticut pleading standards require a defendant to state the facts which are relied upon in its special defenses. Remington does not provide an adequate factual basis for the Eighth Special Defense. As such, the plaintiffs request that the Court require Remington to revise the Eighth Special Defense.

THE PLAINTIFFS,

By: /s/ Alinor C. Sterling

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CERTIFICATION OF SERVICE

This is to certify that a copy of the foregoing has been emailed this day to all counsel of record as follows:

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